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Message Text

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ACTION IO-14

INFO OCT-01 ARA-10 EUR-12 ISO-00 IOE-00 PM-05 ACDA-12
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INRE-00 AF-10 EA-10 NEA-10 /133 W
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O 231234Z JAN 78
FM AMEMBASSY VIENNA
TO SECSTATE WASHDC IMMEDIATE 4821
INFO AMEMBASSY BELGRADE IMMEDIATE
AMEMBASSY MEXICO IMMEDIATE
USDOEHQ WASHDC IMMEDIATE
USDOEHQ GERMANTOWN IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 04 VIENNA 00544

USIAEA

DEPT PASS IO/SCT, NOSENZO AND BETTAUER
DOE PASS BENGELSDORF, MCFADDEN AND BRUSH

E.O. 11652: GDS
TAGS: IAEA, TECH, MNUC, ENRG
SUBJECT: AMENDMENT TO U.S. AGREEMENT FOR COOPERATION

REF: VIENNA 401

1. DISCUSSIONS WITH FISCHER ET AL JANUARY 20 OF MISSION'S DRAFT TEXT TRANSMITTED REFTEL LED TO PRODUCTION OF REVISED TEXT BY SECRETARIAT WHICH FISCHER WILL DISCUSS WITH DIRECTOR GENERAL EKLUND MORNING OF JANUARY 23. COMMENTS OR CONCURRENCE BY DEPARTMENT AND OTHER INTERESTED AGENCIES ON FOLLOWING TEXT REQUESTED URGENTLY. NOTE THAT NEW SENTENCE PROPOSED AS AMENDMENT TO ARTICLE V(C) WAS MOST DIFFICULT TO ACHIEVE, WITH FISCHER MOST RELUCTANT TO GIVE MEMBER STATE VETO OVER
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TRANSFER BY AGENCY OF MATERIAL, ETC., MADE AVAILABLE TO AGENCY FOR ITS OWN USE.

2. DRAFT TEXT, DATED JANUARY 20, IS:

QUOTE SECOND AMENDMENT TO THE AGREEMENT FOR COOPERATION BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE

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UNITED STATES OF AMERICA

QUOTE THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE UNITED STATES OF AMERICA,
QUOTE DESIRING TO AMEND THE AGREEMENT FOR COOPERATION BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE UNITED STATES OF AMERICA, SIGNED AT VIENNA ON MAY 11, 1959, AS AMENDED ON 12 FEBRUARY 1974, (HEREINAFTER REFERRED TO AS THE INNER QUOTE AGREEMENT FOR COOPERATION END INNER QUOTE),

QUOTE AGREE AS FOLLOWS:

QUOTE ARTICLE I

QUOTE ARTICLE IV OF THE AGREEMENT FOR COOPERATION IS AMENDED BY THE ADDITION OF THE FOLLOWING SENTENCES:

QUOTE THE APPLICABLE LAWS, REGULATIONS AND LICENSE REQUIREMENTS OF THE UNITED STATES INCLUDE CRITERIA FOR THE ARRANGEMENTS FOR TRANSFER AND EXPORT AND THE PERFORMANCE OF SERVICES REFERRED TO IN THE FOREGOING SENTENCE, AS SET FORTH IN THE ANNEX AND THE APPENDIX THERETO. THE ANNEX AND THE APPENDIX THERETO MAY BE MODIFIED BY WRITTEN NOTIFICATION TO THE AGENCY BY THE UNITED STATES. ANY SUCH MODIFICATION SHALL BECOME CONFIDENTIAL

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EFFECTIVE UPON RECEIPT BY THE AGENCY OF SUCH WRITTEN NOTIFICATION.

QUOTE ARTICLE II

QUOTE 1. SUB-PARAGRAPHS (A) AND (B) OF ARTICLE V OF THE AGREEMENT FOR COOPERATION ARE AMENDED AS FOLLOWS:

QUOTE (A) SAFEGUARDS IN ACCORDANCE WITH THE AGENCY'S STATUTE AND THE AGENCY'S SAFEGUARDS SYSTEM SHALL BE MAINTAINED AND IMPLEMENTED BY THE AGENCY WITH RESPECT TO ALL AGENCY ACTIVITIES IN WHICH MATERIAL, EQUIPMENT OR FACILITIES MADE AVAILABLE PURSUANT TO THIS AGREEMENT ARE USED.

QUOTE (B) MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO THIS AGREEMENT, AND MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY SUCH MATERIAL, EQUIPMENT OR FACILITIES, SHALL NOT BE USED FOR NUCLEAR WEAPONS OR ANY OTHER NUCLEAR EXPLOSIVE DEVICE, FOR RESEARCH ON OR DEVELOPMENT OF ANY NUCLEAR EXPLOSIVE DEVICE, OR FOR ANY OTHER MILITARY PURPOSE.

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QUOTE 2. SUB-PARAGRAPH (C) OF ARTICLE V OF THE AGREEMENT FOR COOPERATION IS AMENDED BY THE ADDITION OF THE FOLLOWING SENTENCE:

QUOTE IN CASES WHERE THE UNITED STATES IS NOT A PARTY TO AN AGREEMENT PROVIDING FOR THE TRANSFER OF MATERIAL, EQUIPMENT OR FACILITIES IN ACCORDANCE WITH THIS AGREEMENT, SUCH MATERIAL, EQUIPMENT OR FACILITIES MAY BE TRANSFERRED OR RE-TRANSFERRED ONLY UPON AGREEMENT BY THE UNITED STATES.

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INRE-00 AF-10 EA-10 NEA-10 /133 W
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TO SECSTATE WASHDC IMMEDIATE 4822
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QUOTE ARTICLE III

QUOTE THIS AMENDMENT SHALL ENTER INTO FORCE ON THE DATE ON WHICH THE AGENCY RECEIVES FROM THE UNITED STATES WRITTEN NOTIFICATION THAT IT HAS COMPLIED WITH ALL REQUIREMENTS FOR SUCH ENTRY INTO FORCE.

QUOTE ANNEX

QUOTE UNITED STATES CRITERIA FOR TRANSFER AND EXPORT ARRANGEMENTS

QUOTE SECTION A. MATERIAL, EQUIPMENT OR FACILITIES MADE AVAILABLE TO THE AGENCY PURSUANT TO THE AGREEMENT FOR COOPERATION IN CONNECTION WITH ANY AGREEMENT ENTERED

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INTO AFTER THE ENTRY INTO FORCE OF THE SECOND AMENDMENT
TO THE AGREEMENT FOR COOPERATION BY A RECIPIENT NON-
NUCLEAR-WEAPON MEMBER STATE OR GROUP OF MEMBER STATES
WITH THE AGENCY AND THE UNITED STATES (HEREINAFTER
REFERRED TO AS A INNNER QUOTE MULTILATERAL AGREEMENT END
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INNER QUOTE) SHALL NOT BE USED IN ANY AGENCY ACTIVITIES
IN SUCH MEMBER STATE OR GROUP OF MEMBER STATES UNLESS,
AT THE DATE OF TRANSFER, THE MEMBER STATE OR GROUP OF
MEMBER STATES HAS ENTERED INTO AN AGREEMENT OR AGREE-
MENTS WITH THE AGENCY FOR THE APPLICATION OF SAFEGUARDS
IN ACCORDANCE WITH THE AGENCY STATUTE AND THE AGENCY'S
SAFEGUARDS SYSTEM WITH RESPECT TO ALL NUCLEAR ACTIVITIES
BEING CARRIED OUT AT THAT DATE WITHIN ITS TERRITORY,
UNDER ITS JURISDICTION OR UNDER ITS CONTROL ANYWHERE.
FOR THE PURPOSES OF THIS SECTION, AN AGREEMENT WITH THE
AGENCY PURSUANT TO ARTICLE III(4) OF THE TREATY ON THE
NON-PROLIFERATION OF NUCLEAR WEAPONS SHALL BE CONSIDERED
TO FULFILL THE CONDITION STATED IN THE FOREGOING SENTENCE.
QUOTE SECTION B. AN MULTILATERAL AGREEMENT SHALL INCLUDE
INTER ALIA:

QUOTE 1) PROVISIONS RELATING THE DURATION OF THE MULTI-
LATERAL AGREEMENT TO THE PERIOD OF ACTUAL USE OF THE
SUPPLIED MATERIAL, EQUIPMENT OR FACILITIES IN THE
RECIPIENT MEMBER STATE OR GROUP OF MEMBER STATES;

QUOTE 2) PROVISIONS FOR TERMINATING THE MULTILATERAL
AGREEMENT, FORMULATED IN SUCH A WAY THAT THE RIGHTS AND
OBLIGATIONS OF THE PARTIES CONTINUE TO APPLY IN CONNEC-
TION WITH THE SUPPLIED MATERIAL, EQUIPMENT OR FACILITIES
AND WITH SPECIAL NUCLEAR MATERIAL USED IN OR PRODUCED
THROUGH THE USE OF ANY SUCH MATERIAL, EQUIPMENT OR
FACILITIES, INCLUDING SUBSEQUENT GENERATIONS OF SPECIAL
NUCLEAR MATERIAL, UNTIL SUCH TIME AS THE AGENCY HAS
TERMINATED THE APPLICATION OF SAFEGUARDS THERETO IN
ACCORDANCE WITH THE AGENCY'S SAFEGUARDS SYSTEM; AND

QUOTE 3) PROVISIONS ACCORDING TO WHICH THE RECIPIENT
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MEMBER STATE OR GROUP OF MEMBER STATES SHALL, UPON THE
REQUEST OF THE UNITED STATES, INFORM OR PERMIT THE AGENCY
TO INFORM THE UNITED STATES OF THE STATUS OF ALL INVEN-
TORIES OF SOURCE OR SPECIAL NUCLEAR MATERIALS SUBJECT TO

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AGENCY SAFEGUARDS PURSUANT TO ALL AGREEMENTS WITH SUCH STATE OR STATES: HOWEVER, IN THE CASE OF A STATE OR STATES PARTY TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS, THE UNITED STATES NEED BE INFORMED ONLY WITH RESPECT TO THE STATUS OF INVENTORIES OF SOURCE OR SPECIAL NUCLEAR MATERIALS WHICH ARE SUBJECT TO THE PRO-VISIONS OF THE MULTILATERAL AGREEMENT.

QUOTE SECTION C. MATERIAL TRANSFERRED PURSUANT TO ANY MULTILATERAL AGREEMENT AND MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY MATERIAL, EQUIPMENT OR FACILITIES SO TRANSFERRED MAY BE STORED BY THE AGENCY OR THE RECIPIENT MEMBER STATE OR GROUP OF MEMBER STATES TO THE EXTENT CONSISTENT WITH THE AGENCY STATUTE: PROVIDED THAT TLUTONIUM OR URANIUM-233 (OTHER THAN THAT CONTAINED IN IRRADIATED FUEL ELEMENTS) OR URANIUM ENRICHED TO TWENTY PRERCENT OR MORE IN THE ISOTOPE 235 SHALL BE STORED ONLY IN FACILITIES AGREED TO IN ADVANCE BY THE UNITED STATES.
QUOTE SECTION D. MATERIAL TRANSFERRED PURSUANT TO ANY MULTILATERAL AGREEMENT AND MATERIAL USED IN OR PRODUCED THROUGH THE USE OF ANY MATERIAL, EQUIPMENT OR FACILITIES SO TRANSFERRED SHALL NOT BE REPROCESSED, OR (IN THE CASE OF PLUTONIUM, URANIUM-233, URANIUM ENRICHED TO TWENTY PERCENT OR MORE IN THE ISOTOPE 235, OR IN THE CASE OF OTHER MATERIAL WHICH HAS BEEN IRRADIATED) OTHERWISE ALTERED IN FORM OR CONTENT UNLESS THE UNITED STATES AGREES.

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QUOTE SECTION E. URANIUM TRANSFERRED PURSUANT TO ANY MULTILATERAL AGREEMENT AND URANIUM USED IN ANY MATERIAL, EQUIPMENT OR FACILITIES SO TRANSFERRED MAY BE ENRICHED AFTER TRANSFER UP TO TWENTY PERCENT IN THE ISOTOPE 235 ONLY IF THE UNITED STATES AGREES. SUCH URANIUM SHALL NOT BE ENRICHED AFTER TRANSFER TO TWENTY PERCENT OR MORE IN THE ISOTOPE 235 UNLESS SPECIFICALLY PROVIDED FOR BY THE MULTILATERAL AGREEMENT OR BY AN AMENDMENT THERETO.

QUOTE SECTION F. ADEQUATE PHYSICAL PROTECTION SHALL BE MAINTAINED WITH RESPECT TO ANY MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO ANY MULTILATERAL AGREEMENT OR USED IN OR PRODUCED THROUGH THE USE OF ANY MATERIAL, EQUIPMENT OR FACILITIES SO TRANSFERRED. PRIOR TO ANY SUCH TRANSFER THE RECIPIENT MEMBER STATE OR GROUP OF MEMBER STATES SHALL AGREE TO THE LEVELS FOR THE APPLICATION OF PHYSICAL PROTECTION SET FORTH IN THE APPENDIX TO THE ANNEX, AND TO THE MAINTENANCE OF ADEQUATE PHYSICAL PROTECTION MEASURES IN ACCORDANCE WITH SUCH CONFIDENTIAL

LEVELS. THE PHYSICAL PROTECTION MEASURES TO BE MAINTAINED BY THE RECIPIENT MEMBER STATE OR GROUP OF MEMBER STATES SHALL AS A MINIMUM PROVIDE PROTECTION COMPARABLE TO THAT SET FORTH IN AGENCY DOCUMENT INFCIRC/225/REV.1, ENTITLED: INNER QUOTE THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL END INNER QUOTE, AS IT MAY BE REVISED FROM TIME TO TIME.

QUOTE SECTION G. NO SENSITIVE NUCLEAR TECHNOLOGY MAY BE TRANSFERRED PURSUANT TO ANY MULTILATERAL AGREEMENT UNLESS SPECIFICALLY PROVIDED FOR BY SUCH AGREEMENT OR BY AN AMENDMENT THERETO. INNER QUOTE SENSITIVE NUCLEAR TECHNOLOGY END INNER QUOTE MEANS ANY INFORMATION (INCLUDING INFORMATION INCORPORATED IN EQUIPMENT OR FACILITIES) WHICH IS NOT AVAILABLE TO THE PUBLIC AND WHICH IS IMPORTANT TO THE DESIGN, CONSTRUCTION, FABRICATION, OPERATION OR MAINTENANCE OF ANY FACILITY DESIGNED OR USED PRIMARILY FOR URANIUM ENRICHMENT, REPROCESSING OF NUCLEAR FUEL, HEAVY WATER PRODUCTION OR FABRICATION OF NUCLEAR FUEL CONTAINING PLUTONIUM, OR SUCH OTHER INFORMATION AS THE UNITED STATES MAY DESIGNATE PRIOR TO TRANSFER OF THE INFORMATION.

QUOTE SECTION H. MATERIAL, EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO ANY MULTILATERAL AGREEMENT AND ANY SPECIAL NUCLEAR MATERIAL USED IN OR PRODUCED THROUGH THE

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USE OF SUCH MATERIAL, EQUIPMENT OR FACILITIES MAY BE
RE-TRANSFERRED BY THE RECIPIENT MEMBER STATE OR GROUP OF
MEMBER STATES ONLY UPON AGREEMENT BY THE UNITED STATES.
IN CASES WHERE THE UNITED STATES IS NOT A PARTY TO AN
AGREEMENT PROVIDING FOR THE TRANSFER OF MATERIAL, EQUIP-
MENT OR FACILITIES IN ACCORDANCE WITH THIS AGREEMENT,
SUCH MATERIAL, EQUIPMENT OR FACILITIES MAY BE TRANSFERRED
OR RE-TRANSFERRED ONLY UPON AGREEMENT BY THE UNITED STATES.
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QUOTE SECTION I. ANY ARRANGEMENTS ENTERED INTO BY THE
UNITED STATES WITH A NON-NUCLEAR-WEAPON MEMBER STATE OR
GROUP OF MEMBER STATES IN CONNECTION WITH ANY MULTI-
LATERAL AGREEMENT SHALL INCLUDE PROVISIONS FOR THE
APPLICATION OF SAFEGUARDS BY THE UNITED STATES IN THAT
MEMBER STATE OR GROUP OF MEMBER STATES IN THE EVENT
THAT THE AGENCY IS, FOR ANY REASON, UNABLE TO CONTINUE
TO APPLY ITS SAFEGUARDS WITH RESPECT TO SUCH MATERIAL,
EQUIPMENT OR FACILITIES.

QUOTE SECTION J. ANY ARRANGEMENTS REFERRED TO IN SECTION
I ABOVE SHALL FURTHER PROVIDE THAT IF AT ANY TIME A NON-
NUCLEAR-WEAPON MEMBER STATE OR GROUP OF MEMBER STATES IN
WHICH THERE IS AN AGENCY ACTIVITY INVOLVING MATERIAL,
EQUIPMENT OR FACILITIES TRANSFERRED PURSUANT TO ANY
MULTILATERAL AGREEMENT:

QUOTE (1) CARRIES OUT ANY NUCLEAR ACTIVITY WITH RESPECT
TO WHICH THE APPLICATION OF AGENCY SAFEGUARDS IS NOT THEN
PROVIDED FOR IN AN AGREEMENT IN FORCE WITH THE AGENCY AS
CONTEMPLATED IN SECTION A OF THIS ANNEX;

QUOTE (2) DOES NOT PERMIT THE AGENCY TO APPLY SAFEGUARDS,
IN ACCORDANCE WITH THE AGENCY'S SAFEGUARDS SYSTEM, TO ANY
NUCLEAR ACTIVITY CARRIED OUT WITHIN ITS TERRITORY, UNDER
ITS JURISDICTION OR UNDER ITS CONTROL ANYWHERE;
QUOTE (3) DOES NOT COMPLY WITH ANY PROVISION OF A MULTI-
LATERAL AGREEMENT REFERRED TO IN SECTION A OF THIS ANNEX;

QUOTE (4) DETONATES A NUCLEAR EXPLOSIVE DEVICE; OR

QUOTE (5) IS IN MATERIAL NON-COMPLIANCE WITH AN AGENCY

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USDOEHQ GERMANTOWN IMMEDIATE

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SAFEGUARDS AGREEMENT; THE UNITED STATES SHALL HAVE THE RIGHT TO:

QUOTE A) CEASE FURTHER COOPERATION WITH THE MEMBER STATE OR GROUP OF MEMBER STATES UNDER THE AGREEMENT FOR COOPERATION; AND

QUOTE (B) REQUIRE THE RETURN OF ANY MATERIAL, EQUIPMENT OR FACILITIES WHICH ARE SUBJECT, IN SUCH STATE OR STATES, TO THE PROVISIONS OF THE MULTILATERAL AGREEMENT. END QUOTE.

3. APPENDIX - NOTE: APPENDIX IS SAME AS ANNEX B IN TEXT TRANSMITTED REFTEL, EXCEPT THAT APPENDIX IS TITLED QUOTE LEVELS OF PHYSICAL PROTECTION END QUOTE, OPENING PHRASE OF TEXT REFERS TO QUOTE SECTION F OF THE ANNEX END QUOTE AND SENTENCES BEGINNING QUOTE TRANSPORTATION END QUOTE, UNDER BOTH QUOTE CATEGORY I END QUOTE AND QUOTE CATEGORY II END QUOTE, REFER TO QUOTE PRIOR ARRANGEMENT BETWEEN SENDER END QUOTE, ETC., AND TO QUOTE REGULATION OF THE CONFIDENTIAL

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SUPPLIER STATE AND THE RECIPIENT STATE, RESPECTIVELY END QUOTE, ETC.

4. PLEASE CORRECT LAST SENTENCE ANNEX SECTION H IN FOREGOING TEXT TO READ QUOTE IN ACCORDANCE WITH THE AGREEMENT FOR COOPERATION, SUCH MATERIAL END QUOTE, ETC,

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5. PLEASE ADVISE BY IMMEDIATE CABLE. STONE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
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Control Number: n/a
Copy: SINGLE
Draft Date: 23 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
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Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
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Disposition History: n/a
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Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
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Secure: OPEN
Status: NATIVE
Subject: AMENDMENT TO U.S. AGREEMENT FOR COOPERATION
TAGS: TECH, MNUC, ENRG, IAEA
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/dff224e1-c288-dd11-92da-001cc4696bcc
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